

## § 101-42.302

and certifies that the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the hazardous material(s) or its final disposition. Additionally, the donee agrees and certifies to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the hazardous material(s), its use, or final disposition.

### § 101-42.302 Responsibilities for donation of hazardous materials.

(a) *Holding agencies.* Holding agencies shall be responsible for the identification and reporting of hazardous materials as set forth in §§ 101-42.202 and 101-42.203. Pending transfer for donation, each holding agency shall be responsible for performing, and shall bear the cost of, care and handling of its hazardous materials.

(b) *State agencies.* State agencies or the donee when applicable, shall prepare Standard Form (SF) 123, Transfer Order Surplus Personal Property, under § 101-44.4901-123-1. A full description of the actual or potential hazard associated with handling, storage, or use of the item must be made available by providing an MSDS, HMIS data, or a narrative description in block 12c or included as an addendum to the SF 123. Such description shall comply with the requirements of 29 CFR 1910.1200. The State agency and/or donee shall sign the certification in § 101-42.301(b). Any applicable requirements and restrictions shall be forwarded with the SF 123 to the GSA regional office.

(c) *General Services Administration.* GSA, through its regional offices, shall be responsible for approving the transfer for donation of hazardous materials. Before approving any donation of a hazardous material, the GSA regional office shall make sure all required certifications and agreements accompany the SF 123.

### § 101-42.303 Hazardous materials distributed to donees by State agencies.

Donation of surplus personal property designated as hazardous material shall be accomplished by the use of State agency distribution document as set forth in § 101-44.208. In addition to

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the terms, conditions, and restrictions in the distribution document, the donee shall certify to the conditions in § 101-42.301(b).

### § 101-42.304 Special requirements for donation of certain hazardous materials.

Special donation requirements for specific hazardous materials are provided in § 101-42.1102. Many hazardous materials require special storage and handling. It is the responsibility of the Federal holding agency or State agency to properly store hazardous materials, ensure the use of appropriate safeguards, and provide instructions for personal protection to donation screeners who are inspecting surplus hazardous materials. It is the responsibility of the State agency and/or donee to comply with DOT regulations (49 CFR part 171 *et seq.*) when transporting hazardous materials. Any costs incident to repacking or recontainerization will be borne by the State agency and/or donee. State agencies and/or donees will comply with EPA's Resource Conservation and Recovery Act (40 CFR part 261 *et seq.*) including its application to transporters, storers, users, and permitting of hazardous wastes. Such requirements may be administered by various States instead of the EPA.

## Subpart 101-42.4—Sale, Abandonment, or Destruction of Surplus Hazardous Materials and Certain Categories of Property

### § 101-42.400 Scope of subpart.

This subpart prescribes the special policies and procedures governing the sale, abandonment, or destruction of hazardous materials and certain categories of property in addition to the requirements of part 101-45.

### § 101-42.401 Sales responsibilities for hazardous materials.

(a) *General Services Administration.* GSA, through its regional offices, shall be responsible for the sale of hazardous materials for holding agencies except for the Department of Defense, which is delegated authority to sell property under its control, and agencies granted approval by GSA. Holding agency sales